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## TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

Total Number of Pages in This Submission

|                        |                         |
|------------------------|-------------------------|
| Application Number     | 10/644,252              |
| Filing Date            | August 20, 2003         |
| First Named Inventor   | Thomas Zdeblick, et al. |
| Art Unit               | 3731                    |
| Examiner Name          | Julian W. Woo           |
| Attorney Docket Number | MSDI-224/PC242.38       |

### ENCLOSURES (Check all that apply)

- |  |  |  |
|--|--|--|
| <input type="checkbox"/> Fee Transmittal Form<br><input type="checkbox"/> Fee Attached<br><input checked="" type="checkbox"/> Amendment/Reply<br><input checked="" type="checkbox"/> After Final<br><input type="checkbox"/> Affidavits/declaration(s)<br><input type="checkbox"/> Extension of Time Request<br><input type="checkbox"/> Express Abandonment Request<br><input type="checkbox"/> Information Disclosure Statement<br><br><input type="checkbox"/> Certified Copy of Priority Document(s)<br><input type="checkbox"/> Reply to Missing Parts/ Incomplete Application<br><input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53 | <input type="checkbox"/> Drawing(s)<br><input type="checkbox"/> Licensing-related Papers<br><br><input type="checkbox"/> Petition<br><input type="checkbox"/> Petition to Convert to a Provisional Application<br><input type="checkbox"/> Power of Attorney, Revocation<br><input type="checkbox"/> Change of Correspondence Address<br><br><input type="checkbox"/> Terminal Disclaimer<br><br><input type="checkbox"/> Request for Refund<br><br><input type="checkbox"/> CD, Number of CD(s) _____<br><input type="checkbox"/> Landscape Table on CD | <input type="checkbox"/> After Allowance Communication to TC<br><br><input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences<br><br><input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief)<br><br><input type="checkbox"/> Proprietary Information<br><br><input type="checkbox"/> Status Letter<br><input checked="" type="checkbox"/> Other Enclosure(s) (please identify below):<br>Return Receipt Postcard |
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Remarks

### SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

|              |                   |          |        |
|--------------|-------------------|----------|--------|
| Firm Name    | Krieg DeVault LLP |          |        |
| Signature    |                   |          |        |
| Printed name | Brad A. Schepers  |          |        |
| Date         | November 8, 2006  | Reg. No. | 45,431 |

### CERTIFICATE OF TRANSMISSION/MAILING

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| Signature             |                  |      |                  |
| Typed or printed name | Brad A. Schepers | Date | November 8, 2006 |

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

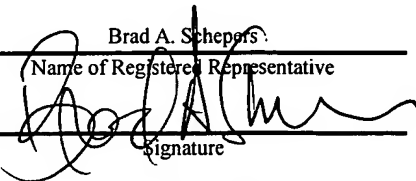
|                              |   |                             |
|------------------------------|---|-----------------------------|
| In re patent application of: | ) | Before the Examiner         |
| Thomas Zdeblick et al.       | ) | Julian W. Woo               |
|                              | ) |                             |
| Serial No. 10/644,252        | ) | Group Art Unit 3731         |
|                              | ) |                             |
| Filed August 20, 2003        | ) | Ref. No. MSDI-224/ PC242.38 |
|                              | ) |                             |
| INTERBODY FUSION DEVICE AND  | ) | November 8, 2006            |
| METHOD FOR RESTORATION OF    | ) |                             |
| NORMAL SPINAL ANATOMY        | ) |                             |

### RESPONSE TO FINAL OFFICE ACTION

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

In response to the final Office Action dated September 28, 2006, please enter and consider the following amendments and remarks. No extension fees are believed to be due with regard to the filing of this Response. However, please provide any extensions of time necessary and charge any additional fees which may be necessary to Deposit Account No. 12-2424, but not to include any payment of issue fees.

|   |  |
|---|--|
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| November 8, 2006<br>_____<br>Date of Deposit  |  |
| Brad A. Schepers<br>_____<br>(Name of Registered Representative)  |  |
| <br>_____<br>Signature  |  |
| November 8, 2006<br>_____<br>Date of Signature  |  |

## **INTRODUCTORY COMMENTS**

Claims 19-25, 27-29, 31, 34-45 and 50 are pending in the subject application. Claims 27-29 and 34-43 have been allowed. Claim 45 has been objected to, but has been indicated as being allowable if rewritten in independent form. Claims 19-25, 31, 44 and 50 currently stand rejected. In view of the following amendments and remarks, reconsideration and allowance of the subject application are hereby requested.